

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

RA.385/94 in OA.268/88

Dated this the 24th of November, 1994.

Shri N.V. Krishnan, Hon. Vice Chairman(A).

Shri C.J. Roy, Hon. Member(J)

Ramesh Chandra Gupta
S/o Shri Hari Shankar Gupta,
R/o C-49, Malanjkhand Copper Project,
Malanjkhand 491116(M.P.) ...Applicant

By Advocate: Shri T.C. Aggarwal

versus

1. Director,
Regional Research Laboratory,
Bhubaneshwar 751 013.
2. Regional Research Laboratory,
Bhubaneswar 751 013.
3. Director General,
Scientific and Industrial REsearch
'DGSIR'.
4. Council of Scientific & Industrial
Research, Anusandhan Bhawan,
Rafi Marg, New Delhi 110 001.

By Advocate: None.

O R D E R in R.A. (Oral)

(By Shri N.V. KRISHNAN)

We have heard. He states that the
OA.268/88 was disposed of on 15.7.93 with
the following directions:-

"2. Thus, what remains to be paid
is the actual pension at the rate of
Rs.219/- per month from 9.5.1981 to
31.12.1985 and at Rs.505/- w.e.f. 1.1.86
to the date the actual commutation
has been given effect to. On the amount
of gratuity the petitioner shall also
be entitled to payment of interest
at the relevant rate as provided in
the Rules. The respondents are directed
to make additional payment to the
petitioner, as indicated hereinbefore,
as early as possible but preferably
within three months from the date of
communication of this order. No costs."

2. It is, therefore, evident from the
above order that immediately before his

commutation of pension, the rate of pension has been increased to Rs.505/- per month. Commutation should now be on the pension of Rs.550/- per month. On the contrary, the respondents have given the commuted value taking the pension at the rate of Rs.219/- per month. It is in this regard that this review application has been filed. The learned counsel for the applicant seeks a review of that order.

3. We have heard him. The reliefs prayed for, by him, have been mentioned in page.2 of the judgement. Only 2 reliefs were sought namely: (a) pro-rata pension and gratuity and family pension based on 12 years qualifying service; (b) Interest at 18% on the amount due to the applicant from the day the amount was due. The records of the OA show that no other relief was sought.

There is no whisper of any relief in regard to commutation of pension.

4. The applicant himself states that though the respondents right to file their reply was forfeited, they conceded at an early hearing the right of the applicant and that, therefore, the documents sought to be filed with the MP are necessary for a proper disposal. The documents included pension calculation and others of commutation. That MP was allowed on 9.6.93.

5. This does not mean that any grievance in regard to commutation of pension was taken in that MP, so as to amend the prayer

in the OA. There was no amendment of the OA, in so far as the reliefs sought for, is concerned, so as to include a prayer regarding commutation. 25

6. We do not, therefore, see any error apparent on the face of the record.

7. The applicant relies on the judgement of the Supreme Court in S.Nagraj & Ors. versus State of Karnataka (1994(1) SLJ (SC)61) for his prayer. The ratio of that judgement would apply only if the court feels that an error has been committed. Likewise reliance on (1993) ATC 461 (SC)- Union of India versus Ashwin Kumar is also of no avail for the same reason.

8. In the circumstances, the RA is dismissed. It is open to the applicant, if so advised, to seek appropriate legal remedies, if still available.

msk
(C.J. ROY)
MEMBER(J)

CK
(N.V. KRISHNAN)
VICE CHAIRMAN(A)

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